INFORMATION LETTER

Not for Publication **NATIONAL CANNERS ASSOCIATION** For Members Only

No. 1337 Washington, D. C. May 19, 1951

Eric Johnston To Address Board In Session on Government Controls

Eric Johnston, Administrator of the Economic Stabilization Agency, will address the luncheon meeting of the N.C.A. Board of Directors, Friday noon, in the Congressional Room of the Hotel Statler. Mr. Johnston was sworn in as ESA administrator on January 24. He became a national figure with his election in 1942 as president of the Chamber of Commerce of the United States, to which office he was elected four times—a Chamber record. During his several terms he spearheaded efforts to improve labor-management relations, culminating in the Management-Labor Charter of World War II, under which management and labor agreed to refrain from strikes and lockouts while hostilities continued.

During the war Mr. Johnston also served on the War Manpower Commission Management-Labor Policy Committee, the State Department's Postwar Economic Foreign Policy Committee, the Inter-American Development Commission, the War Production Board Advisory Committee for Civilian Policy, the Advisory Board of the Office of Economic Stabilization and the War Mobilization and Reconversion Advisory Board. The speaker will thus bring, in his address to the N.C.A. Directors, a full background of experience in govern-

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WARNING
Hazardous Insecticides

In view of the fact that tolerances on chemical residues used as pesticides will not be issued by the Food and Drug Administration in time to serve as a guide in selection of insecticides and fungicides to be used this growing season, canners should be extremely careful in the use of certain pesticides this year on their canning crop acreage. The shortage of certain chemicals used in the manufacture of pesticides may somewhat restrict the supply of some insecticides which can be secured by canners and farmers for insect and disease control this coming season, and some canners and farmers may be induced to use substitutes for those generally recommended.

Evidence presented at the FDA tolerance hearings and further toxicological research since then suggests the extreme hazard to canners or farmers of using the following insecticides on edible portions of fruits and vegetables for canning: Aldrin, BHC (technical), Dieldrin, Chlordane, Heptachlor, Lindane, and Toxaphene. It has been reported that these are all extremely toxic substances and many are extremely persistent and difficult to remove prior to processing. Some of them, particularly BHC and Lindane, will sometimes cause off-flavor in canned products, and there is strong suspicion that several others will likewise cause off-flavor after the canned product has been in storage for some time.

This does not mean that several of these chemicals cannot be used around borders of fields for the control of grasshoppers and cutworms, and may be used in baits for the control of these same insects if scattered on the

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Ceiling Price Regulation 22

A question-and-answer summary of major provisions of CPR 22 begins on page 207 and is followed by the text of official interpretations under CPR 22 issued by OPS.

President Barnes Appoints 1951 N.C.A. Committees

President H. J. Barnes this week announced the membership of 20 N.C.A. committees to serve during 1951.

Of the total, 16 are standing committees and 4 special committees. The complete list of committee personnel, with the chairman indicated in each case, along with the names of the N.C.A. officers, Board of Directors and Administrative Council, is published on the next five pages of this issue.

In addition to these committees, subcommittees are named by committee chairmen to carry out specific duties when the occasion arises.

Schedule of Meetings Board, Council, Committees

Following is a schedule of meetings of the Board of Directors, Administrative Council, and N.C.A. Committees next week:

Tuesday, May 22

10 a.m—Legislative Committee, Conference Room, N.C.A. Headquarters

Wednesday, May 23

10 a.m.—War Mobilization Committee, Conference Room, N.C.A. Headquarters

10 a.m.—Labeling Committee, Home Economics Conference Room, N.C.A. Headquarters

10 a.m.—Technical Subcommittee to the Labeling Committee, Library, N.C.A. Headquarters

2:30 p.m.—Statistics Committee, Library, N.C.A. Headquarters

Thursday, May 24

10 a.m.—Association of Canners State and Regional Secretaries, Library, N.C.A. Headquarters

10 a.m.—Administrative Council, Conference Room, N.C.A. Headquarters

1 p.m.—Luncheon, Board, Council, Committees, State Secretaries, South American Room, Hotel Statler

2 p.m.—Board program, South American Room, Hotel Statler

Price Controls—George Mehren, Assistant Director, Food and Restaurant Division, Office of Price Stabilization

Procurement—Lt. Col. W. F. Durbin, Subsistence Branch, Supply

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Frank Gerber, Gerber Products Co., Fremont, Mich.

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Hazardous Insecticides

(Concluded from page 201)

soil surface around young growing plants, as recommended by state and federal entomologists. Several of these chemicals are likewise used as seed treatments, using several ounces per bushel of seed, and there is no evidence that this small amount is hazardous from the standpoint of either residues or off-flavor, on the crops grown from them.

DDT and TDE (DDD) have been used quite extensively and a great deal of work has been done with these two chemicals. They have their definite place, but should not be used indiscriminately and should be used according to specific recommendations of state and federal entomologists and according to the label directions on the container.

It is felt that it would be extremely unwise to use extensively any of the newer chemicals until sufficient research work has been done to determine their toxicity to warm-blooded animals, their residue hazard, and their possible physiological effect on flavor. The specific recommendations of the State Agricultural Experiment Stations and the Bureau of Entomology and Plant Quarantine of the U. S. Department of Agriculture recognize these facts and their recommendations should be utilized fully.

DEFENSE

Additional Information for Figuring Prices under the Manufacturers' General Ceiling Price Regulation, CPR 22

It has been reported that canners whose products are subject to the Manufacturers' General Ceiling Price Regulation, CPR 22, and others whose ceiling prices must be determined under that Regulation, have encountered some difficulty in determining their ceiling prices. As a further graphic explanation of CPR 22, the OPS has just issued a Guide for those who must employ the Regulation. This is being mailed to all N.C.A. members.

As an additional aid, the following series of questions and answers has been prepared for N.C.A. members. These contain the answers to questions which have been generally asked since the Regulation became effective.

What is the geographical coverage of the Regulation?

All canners located in the continental United States, including the District of Columbia, but not including territories or possessions, are covered.

Are any canners located in the United States exempt?

Canners whose gross sales for the last complete fiscal year ended prior to May 28, 1951, the effective date of the Regluation, were less than $250,000 for total commodities sold, whether or not all are subject to the Regulation, may elect *not* to use the Regulation. If they elect not to use the Regulation for some commodities, they may not use it for any commodities. Such canners who do elect not to use the Regulation for the products covered will still be subject to the General Ceiling Price Regulation. (Some canners who sell at wholesale or retail or who engage in some other specialized type of operation should refer to the official interpretations issued by OPS; for example, see Interpretation 4.)

Are all canned foods covered by the Regulation?

No. Appendix A(c) lists a number of food products that are *not* subject to the Regulation. These are defined in the Appendix as "all canned, frozen, and dried seasonal (meaning products packed at time of harvest from agricultural commodities having a stable seasonal pattern) fruits, berries, and vegetables, and their juices." Many processed food products, however, are covered. Among these are canned fishery products (except those packed in Alaska, Hawaii and other U. S. territorial possessions), sterile canned meats, canned dried beans (baked, pork and beans, vegetarian-style, etc.), pickles (except fresh-packed), macaroni, spaghetti, jams, jellies and preserves, hominy, dried lima beans, sweet potatoes, white potatoes, puddings, sauerkraut, and mushrooms.

Products manufactured from seasonal fruits and vegetables, such as tomato catsup and chili sauce, and products manufactured from previously-processed seasonal fruits and vegetables are also probably subject to the Regulation, but this has not yet been definitely determined.

What is the price control status of products not subject to CPR 22?

They remain in exactly the same status as before the issuance of the Regulation. Those subject to the General Ceiling Price Regulation of last January are still subject to general freeze, and those exempt from price control remain exempt.

What is the general principle of pricing used in the Regulation?

The general principle under which the Regulation has been formulated is a return to pre-Korean price levels adjusted for certain increases in material and labor costs which have occurred since.

What is the base period on which a canner constructs his ceiling prices?

A canner may use the period April 1 through June 24, 1950, or any previous calendar quarter ending not earlier than September 30, 1949, which he may elect. The same base period, however, must be selected for all commodities in the same category.

What commodities will be considered as being in the same category?

A category is defined in Section 5 of the Regulation as referring to a group of commodities which are normally classed together in an industry for purposes of production, accounting or sales. This is the same definition as used in Section 4 of the General Ceiling Price Regulation and as required by Section 16(a)(2) of the General Ceiling Price Regulation, canners should already have prepared lists showing their categories of commodities.

Are ceiling prices based on sales to any particular class of purchaser?

Ceiling prices are based on sales to the "largest buying class of purchaser," and the canner determines ceiling prices to other classes of purchasers by applying the *last* price differential used during the base period selected. The "largest buying class of purchaser" is the one which bought the largest dollar amount of a given item during the base period. The United States or any agency thereof, any foreign purchaser or any person to whom the only sales made during the base period were under a written contract of at least six months duration entered into prior to the base period may not, however, be considered in the largest buying class of purchaser unless they represent the only class of purchaser during the base period.

Are there specific instructions for calculating the labor cost adjustment?

Sections 7 through 9 of the Regulation show you how to figure your labor cost adjustment. (Details are set forth on pages 4-5 of the OPS Guide on CPR 22). Between what dates may labor cost increases be figured? A canner figures the increases in labor cost between the end of the base period selected and March 15, 1951.

May all labor cost increases be included?

Only the actual factory payroll may be taken into account. Labor used in general administration, sales, advertising, research, major repairs or replacement of plant or in expansion of plant or equipment may not be included. Labor used in factory supervision, packaging and handling, ordinary maintenance and repair of plant or equipment or in materials control, testing or inspection may be considered as part of the factory payroll.

Can additional benefits such as pension plans, insurance plans and paid vacations be included?

Yes, they may be added.

Should overtime be considered in figuring labor cost adjustments?

Yes, but the same number of overtime hours should be considered in the "base period payroll" and the "recomputed payroll."

Are there specific instructions for calculating the materials cost adjustment?

Sections 10 through 23 of the Regulation show you how to figure your materials cost adjustment. (Details are set forth in pages 5-8 of the Guide).

What materials may be included in figuring the materials cost adjustment?

A canner may include all materials entering directly into the commodity being priced or used in the manufacturing process. For example, a canner may include among others the cost of raw fruits or vegetables, raw fish, packing media, condiments, sauces, containers, labels, fuel, and rental charges for machinery, such as closing machines.

Between what dates may materials cost adjustments be figured?

Between the end of the base period selected and December 31, 1950 for

most materials; for a number of materials designated in Appendices A and B, such as glass containers, paper cartons, etc., the cut-off date is March 15, 1951; for the agricultural products which are selling below the legal minima prescribed in the Defense Production Act, and which are listed in Appendix C, the changes in cost may be figured to a current date.

Are all cost changes for all types of container figured to the same date?

No, glass and fiber containers are included in Appendix B and the cost changes are therefore figured to March 15, 1951. Metal containers are not included in Appendix B and therefore changes in cost are figured only to December 31, 1950. It is hoped that the Regulation will soon be amended to permit increases in cost of cans to be figured to March 15, 1951 which would permit reflection of the increases effective January 1, 1951.

Are there any restrictions on the calculations of cost increases to a current date on the agricultural items listed in Appendix C?

Yes. Further increases may not be calculated after deletion of the item from Appendix C by the Director of Price Stabilization or beyond any date more than five days subsequent to the day upon which the Secretary of Agriculture announces by publication a price which equals or exceeds the legal minimum prescribed in the Defense Production Act. Furthermore, increases in materials cost figured to current dates for agricultural commodities may not be reflected in the ceiling prices of inventories on hand.

Are there provisions for pricing new commodities, new sellers, and sales to new classes of purchasers?

These are contained in Sections 30-33 of the Regulation and are similar to the comparison commodity and most closely competitive seller provisions of the General Ceiling Price Regulation. (See also page 9 of the Guide).

May increases in transportation costs be included in adjustment of ceiling prices?

If the base period price and therefore the ceiling price is a delivered price, a canner may adjust his ceiling price to reflect any increases in transportation cost between the end of the base period and March 15, 1951. This does not, however, include increases in rail and water rates authorized by the Interstate Commerce Commission in its decision of May 12, 1951.

Are export sales covered by the Regulation?

Section 35 of the Regulation provides that export sales are subject to the Regulation.

If a canner finds he cannot price under any of the provisions of the Regulation what action should he take?

Section 34 of the Regulation provides that application should be made in writing to the Director of Price Stabilization, Washington 25, D. C., for establishment of a ceiling price. The application should contain an explanation of why the canner is unable to determine a ceiling price under any other provisions of the Regulation.

When a ceiling price has been reported, may it be refigured?

Once a determination of a ceiling price has been made and reported, except for redeterminations due to increases in cost of agricultural commodities, prices may not be refigured. Purely arithmetical errors may, however, be corrected if reported to the Director of Price Stabilization.

May the Director of Price Stabilization disapprove ceiling prices?

The Director of Price Stabilization may at any time disapprove prices proposed to be used or being used to bring them in line with the level of ceiling prices otherwise established by the Regulation.

What records must a canner keep?

All persons affected by the Regulation must preserve all records necessary to determine whether ceiling prices have been computed correctly. Furthermore, they must preserve for a period of two years all records showing the prices at which sales of commodities subject to the Regulation have been made.

May a canner obtain amendment of the Regulation or an individual adjustment?

Any canner who wishes to secure an amendment to the Regulation may file a petition for amendment in accordance with the provisions of Price Procedural Regulation No. 1. Furthermore, there is a provision for adjustment in ceiling prices on an individual basis where an overall loss in operations of a manufacturer has resulted. Section 43 of the Regulation outlines the conditions which must exist for the filing of a petition for individual adjustment and the procedure to be followed. (Elsewhere in this LETTER there appears a summary of General Overriding Regulation No. 10 which provides for similar adjustments on an individual basis under the General Ceiling Price Regulation).

May a canner under any circumstances construct his ceiling prices on those established under the General Ceiling Price Regulation rather than the base period price?

For the benefit of multi-product producers Supplementary Regulation 2 to Ceiling Price Regulation 22 was issued to permit calculation of ceiling prices for products covered by the Regulation using as a basis the ceilings under the General Ceiling Price Regulation. A discussion of this alternate pricing method appeared in the INFORMATION LETTER of March 12, page 194.

What reports must be filed?

Each canner subject to the Regulation must file with OPS on or before May 28th a report of his ceiling prices on Public Form #8. Copies of this may be obtained from any OPS regional or district office. Reports showing a ceiling price for commodities higher than previous ceiling prices must be sent by registered mail. (Sample reports may be found on page 16 of the Guide.)

What is the effective date of the Regulation?

The effective date is May 28, 1951. Any increases in price, however, may not be made effective until 15 days after filing a report of the increase on Form 8.

GOR 10, Relief under GCPR

Under the terms of General Overriding Regulation 10, manufacturers pricing their products under the General Ceiling Price Regulation or under any other regulation who, as a result of such ceiling price, would be forced to operate at a loss with respect to their over-all manufacturing operations may apply to OPS for an upward adjustment of their ceiling prices.

The purpose of GOR 10, which became effective on May 11, is to make available to those manufacturers pricing under GCPR or any other regulations the same relief procedures afforded to manufacturers generally by Section 43 of CPR 22.

To be eligible for such relief, the manufacturer must support his application with proof that his over-all operations are currently being conducted at a loss, that the adjusted prices for which he applies will not be substantially out of line with the ceiling prices established for other sellers of similar commodities, and that the loss involved is attributable to the level of his existing ceiling prices and not to seasonal, temporary or other business factors independent of price controls. Canners should refer to the text of the Regulation for a more detailed summary of the basis on which relief may be granted.

If the manufacturer, after receipt of his application has been acknowledged, hears nothing further from OPS within 30 days, he may sell at his proposed adjusted ceiling prices until such time as the OPS notifies him that such prices have been disapproved.

Interpretations to CPR 22 Issued by OPS

The following interpretations under the Manufacturers' General Ceiling Price Regulation, CPR 22, are among those issued by the Office of Price Stabilization:

CPR 22, Int. 1—Increases in Transportation Costs

Section 28 of CPR 22 permits an adjustment of ceiling prices quoted on a delivered basis to reflect any increases, between the end of the base period and March 15, 1951, in transportation costs actually incurred. This does not include increases in rail or water freight rates authorized by the Interstate Commerce Commission in its decision of March 12, 1951 in Ex Parte No. 175 (and Sub-No. 1). None of the increases so authorized became effective until after March 15, 1951.

CPR 22, Int. 2—General Limits of Exemption

Commodities or sales exempted from CPR 22 under Appendix A or under section 1 are thereby exempted only from CPR 22 and are still subject to price control under such other regulations as may be applicable.

CPR 22, Int. 3—Sales at Wholesale and at Retail (Sec. 1)

When a manufacturer sells the same commodity both at wholesale and at retail, only his sales at wholesale are covered by CPR 22, inasmuch as section 1 expressly exempts sales at retail. His sales at retail would be covered by such other regulations as may be applicable.

CPR 22, Int. 4—Election (Sec. 1)

Section 1, CPR 22, permits a manufacturer whose gross sales for his last complete fiscal year were less than $250,000 to elect not to use the regulation. This is, in effect, an option to continue using GCPR for commodities which would otherwise be covered by CPR 22.

(a) A manufacturer must determine his "last complete fiscal year" by reference to the effective date of the regulation, May 28, 1951, and not by reference to the date of issuance of the regulation, April 25, 1951. Thus, the last complete fiscal year for a manufacturer whose year ends on April 30 is the year ending April 30, 1951, and not the year ending April 30, 1950. Likewise, if his fiscal year ends on May 31, the last complete fiscal year is the year ending May 31, 1950 and not the year ending May 31, 1951.

(b) The $250,000 figure relates to total sales of all commodities which he manufactures regardless of how much of such commodities are subject to this regulation, GCPR, or any other regulation. Thus, if his total sales were $600,000, he has no election even though only $240,000 of these sales related to commodities subject to the regulation. Similarly, if his total wholesale and retail sales of the commodities manufactured by him were $600,000, he has no election even though the sales at wholesale amounted only to $240,000 and the remainder were sales at retail (exempted sales).

(c) If a manufacturer's gross sales for his last complete fiscal year were $250,000 or more, he may not thereafter make the election provided by section 1, CPR 22, even though his gross sales in a subsequent fiscal year should drop below $250,000.

(d) A manufacturer who makes the election to use GCPR instead of CPR 22, as permitted by section 1, is not required to file any report of such election.

(e) A manufacturer may elect to use GCPR instead of CPR 22, under section 1, if the total of all sales for his last complete fiscal year of all commodities manufactured by him is less than $250,000, even though the total of his combined sales as a manufacturer and as a wholesaler or retailer of commodities manufactured by others is $250,000 or more.

CPR 22, Int. 5—Base Period Payroll, Retroactive Wage Increases Not Included (Sec. 8 (c))

The provision of section 8 (c), CPR 22, with respect to recomputation of base period payroll on the basis of wage rates "in effect on March 15, 1951" does not include any adjustment of wage rates made thereafter, even though the adjustment may be made retroactive to March 15, 1951 or some prior day. This would be the case whether the adjustment is made pursuant to an express provision in a contract in effect on March 15, 1951 or otherwise.

CPR 22, Int. 6—"Base Period Payroll," Inclusion of Overtime Wages (Sec. 8 (c))

"Base period payroll" as used in section 8 (c), CPR 22, would include overtime actually paid during the payroll period. The recomputed payroll should include the same amount of overtime hours as the base period payroll, calculated at the rates prevailing on March 15, 1951. This method of calculation was provided because it is the simplest way of arriving at the increase in straight time wage rates. Since the same amount of overtime hours is included in both calculations, the result will generally be substantially the same as that which would be obtained by eliminating overtime payments from both the base period and the recomputed payroll.

CPR 22, Int. 7—Maintenance Costs (Sec. 10)

The exclusion from "manufacturing material" in section 10, CPR 22, of materials used in "maintaining" a manufacturer's plant was intentional and the inclusion in labor costs of section 8 of labor used in "ordinary maintenance and repair" was intentional. This was done because of the difficulties of segregating maintenance labor from other factory labor.

CPR 22, Int. 9—Use of Section (Sec. 18 (c))

A manufacturer may not use section 18 (c) in the case of deliveries received pursuant to a contract entered into more than 60 days prior to the prescribed date, even though such deliveries were received within 30 days of the prescribed date. Conversely, he may not use section 18 (c) in the case of deliveries received more than 30 days prior to the prescribed date, even though such deliveries were received pursuant to a contract entered into within 60 days prior to the prescribed date. The purpose of section 18 (c) is to avoid the use of "stale" prices which would be unrepresentative of actual market conditions as of the prescribed dates, and which might in many cases result in an unfair and unrealistic figure for the materials-cost adjustment.

CPR 22, Int. 10—Long Term Contracts Subject to Price Revisions (Secs. 18 (c), 47)

A manufacturer purchases materials under a contract signed on March 15, 1950 providing for successive deliveries of materials from April 1, 1950 through March 31, 1951. The contract states a price for the materials, but gives the seller the option to increase or decrease the price with respect to the calendar quarters commencing on July 1, 1950, October 1, 1950 and January 1, 1951. To change the price the seller must give the manufacturer notice at least fifteen days before the beginning of the calendar quarter in which the new price is to be effective. The question is presented under section 18 (c) and (d) as to whether this contract constitutes a contract "bearing a firm price entered into more than 60 days prior to the prescribed date. . . ."

The manufacturer's base period is April 1, to June 24, 1950, so that he computes his materials cost as of the prescribed dates of June 24, 1950 and December 31, 1950.

The contract may be considered as representing a series of quarterly contracts within the meaning of section 18 (c) and (d). As to section 18 (c), the deliveries actually received by the manufacturer during the base period would have been made pursuant to the quarterly contract which became effective April 1, 1950. Inasmuch as this quarterly contract is considered to have been "entered into" on March 15, 1950, more than 60 days prior to the first prescribed date of June 24, 1950, the manufacturer would not use as his materials cost under section 18 (c) the price stated in the contract for the first quarter.

As to section 18 (d), the price stated in the contract for the quarters beginning July 1, 1950, October 1, 1950 and January 1, 1951 may be considered to be an "open" price in view of the seller's reservation of the absolute right to change the price. The price does not therefore, become firm until (1) such time as the seller gives notice of his exercise of the option to change the price, or (2) the first day after the expiration of the time within which he must give such notice. Therefore, under section 18 (d) the second quarterly contract, beginning July 1, 1950, may be considered to have been "entered into" either on the day on which the seller gave the required notice of the new price or, failing such notice, on June 17, 1950 (the 14th day prior to July 1, 1950). This quarterly contract might then be considered as a contract "entered into" within 60 days prior to the first prescribed date of June 24, 1950 within the meaning of section 18 (d).

Similarly, with respect to the second prescribed date of December 31, 1950, the quarterly contract commencing January 1, 1951 would be considered to have been "entered into" on the day on which the seller either gave the required notice of the new price, or failing such notice, on December 18, 1950 (the 14th day prior to January 1, 1951).

Similar contracts which, however, leave the prices for each quarter "open," shall be construed in the same manner as the above-described contract.

CPR 22, Int. 11—Who Must Report (Sec. 46 (b))

A manufacturer who does not calculate either his labor cost adjustment or his materials cost adjustment and, instead, uses his base period price as his ceiling price under the regulation, as is permitted by section 3 (a), CPR 22, must nevertheless file Public Form No. 8 as required by section 46 (b). In such case he should supply, in addition to his name and address, the information required by Items 1, 2 and 3, and should indicate on the Form that he has elected to use his base period price.

CPR 22, Int. 12—Corporate Identity (Sec. 47)

The separate identity of corporations may not be disregarded under CPR 22. Thus, a subsidiary corporation wholly owned by a manufacturer and acting as exclusive sales agent for the manufacturer is not a manufacturer under CPR 22. The subsidiary, therefore, may not determine its ceiling price under the regulation. Conversely, a manufacturing corporation that distributes all of its products through a wholly owned subsidiary that sells at retail is subject to CPR 22, and is not itself selling at retail within the meaning of section 1. As a further illustration where two manufacturing corporations are wholly owned by a third manufacturing corporation, all three are separate manufacturers under CPR 22. This is the case even if the three corporations are engaged in separate steps in the manufacture of a single finished commodity (assuming that the separate steps constitute manufacturing).

CPR 22, Int. 14—"Net Sales," Selling Commissions Not Deductible (Sec. 47)

The term "net sales" is defined in section 47, CPR 22, as referring to "gross sales after trade discounts, less returns and allowances" and applies only to allowances made to the purchaser. Selling commissions, being payments to other persons than the purchaser, whether paid to an employee, broker, or other company, are not "trade discounts," "returns," or "allowances." Therefore, in computing net sales a manufacturer may not deduct the amount of such selling commissions paid by him.

CPR 22, Int. 15—"Sale at Retail" (Sec. 47)

A sale to a "commercial, industrial, governmental or institutional user," is not a "sale at retail" as defined in section 47, CPR 22, even though the commodity sold to such user is not to be resold. Thus, a gasoline pump sold to a service station by the manufacturer, or a typewriter or carbon paper sold to a business establishment, is not a sale at retail but constitutes a sale to a commercial user.

CPR 22, Int. 16—Appendix A, General

The exemptions from CPR 22 provided by Appendix A are limited to the specific commodities listed and do not extend to commodities produced or processed in whole or in part from the listed commodities unless otherwise specified in Appendix A. For example, "Leather, tanned and finished" is exempted by par. (o) of Appendix A. This exemption, however, extends only to leather in its form at the end of the tanning and finishing processes. Thus, sales by manufacturers of leather products such as cut soles, counters, welting, box toes, and shoe uppers are not exempted. The only reason that "Footwear, except rubber footwear" is exempted is because it is specifically exempted by par. (p) of Appendix A.

CPR 22, Int. 17—Appendix A, Scrap and Waste Materials, By-Products Not Exempted

The residue or remainder resulting from a manufacturing process does not constitute "scrap and waste materials" as exempted from CPR 22 by Appendix A, par. (b) (4), if it is in fact a by-product of the manufacturing process and sold as such by the manufacturer. The exemption is available only for such materials as are actually considered by the custom of the trade to constitute scrap or waste and are sold as such by the manufacturer.

Parity Adjustment Allowed For Producer-Processors

Under the terms of two recent amendments to GCPR and CPR 22, respectively, producer-processors, producer-owned cooperative processors, and processors operating under "open" price and deferred payment contracts will be enabled to take advantage of the "parity" adjustment provisions of the General Ceiling Price Regulation and of the Manufacturers Ceiling Price Regulation. Amendment 10 to GCPR and Amendment 2 to CPR 22, both of which became effective on May 16, are similar amendments designed to close a gap in the price ceiling formulas provided for by each of these Regulations.

Under the General Ceiling Price Regulation or CPR 22 (which will determine the ceiling prices for many nonseasonal products as of May 28), processors who produce their own agricultural commodities, including producer-owned cooperative processors, and processors who obtain their produce under contracts which relate the price paid to the processor for the agricultural commodity to the processor's subsequent sales price or profit on the sale have been unable to take advantage of the "pass-through" provisions of Section 11 of the GCPR or Section 21 of CPR 22 because such processors made no actual purchases of below-parity commodities or were unable to determine the cost of the raw agricultural commodity until after the sale of the processed product.

The two amendments to the respective regulations relieve the situation by providing that producer-processors and processors who purchase below-parity agricultural commodities pursuant to "open" price or deferred payment contracts shall, in calculating either their material cost increase under Section 11(b)(2) of GCPR or their "materials cost adjustment" factor under Section 21(b) or (c) of CPR 22, adopt the prices their nearest competitor had to pay for the agricultural commodity. Producer-owned cooperative processors who do not customarily purchase any amount of their produce from independent and unaffiliated producers may increase their ceiling prices for the processed product to an unlimited extent, provided that the entire dollar-and-cents increase in total gross sales revenue derived from the ceiling price increase is passed back to producers within 30 days after the end of each normal accounting period.

NPA and Industry Committee Review Tinplate Situation

The possible effects of the Controlled Materials Plan, conservation of tinplate in milk cans, and tinplate export requirements were discussed recently at a meeting of the National Production Authority with its Tinplate Industry Advisory Committee.

NPA officials told the committee that tin, although not a "controlled material" within CMP, will continue under complete allocation in the interests of defense and defense-supporting activities.

Committee members were urged by NPA to continue negotiations with milk producers toward using electrolytic tinplate. It was reported that successful experiments have been carried out in this field.

The committee was informed that allocation of pig tin for producing tinplate may be affected seriously by requests for increased supplies of tinplate for export. Export requirements for the third quarter amount to 125,000 tons of tinplate, an increase of 15,000 tons over the amount manufactured for export in the first quarter.

The Office of International Trade, also in the Commerce Department, has announced establishment of a quota of 1,150 long tons of pig tin for the production of export tinplate to supply the export quota. OIT estimates that this quantity, which is 150 tons greater than that set aside for export use during the second quarter, will produce approximately 124,960 short tons of tinplate for export.

Among the export allocations for third-quarter tinplate production are the following countries, with allocations indicated in short tons:

Argentina 6,000, Chile 600, Costa Rica 25, Cuba 3,200, Ecuador 45, Mexico 4,400, Panama 150, Peru 850, Uruguay 1,400, Venezuela 1,000;

Austria 500, Belgium-Luxembourg 4,200, Denmark 6,900, Finland 400, Greece 1,300, Iceland 100, Ireland 900, Italy 5,000, Netherlands 14,200, Norway 5,500, Portugal 5,000, Spain 750, Sweden 3,500, Switzerland 2,000, Yugoslavia 1,500.

N.C.A. 1950 Financial Report

A copy of the audited financial statement of the National Canners Association for 1950 was mailed this week to each member canner.

STATISTICS

Survey of Preserving Industry

A report on *Fruit Spread Production in 1948 and 1949*, issued by the U. S. Department of Commerce, supplies detailed information on United States production of preserves, jams, jellies, fruit butters and marmalades.

The report was conducted under auspices of the Commerce Department and with financial sponsorship of the National Preservers Association. The statistics in the report were furnished by 182 manufacturers on questionnaires drawn to the specifications of the industry.

Preliminary reports on the survey were issued last year (see INFORMATION LETTERS of May 13, 1950, page 174; August 5, 1950, page 244; and August 26, 1950, page 264).

Estimated fruit spread production in the United States, 1947 through 1949, was estimated as follows:

Product[1]	1947	1948	1949
	—(*in thousands of pounds*)—		
Preserves and jam	328,372	276,500	275,000
Jellies	[2] 194,305	176,500	178,000
Fruit butters	105,974	57,700	52,400
Marmalades	42,475	26,100	25,300
Total	671,126	536,800	531,300

[1] Does not include substandard preserves, jams, or jellies. [2] Revised from original Census figure of 180,146,000 pounds.

Copies of the report are available from the Business Information Service, Office of Industry and Commerce, U. S. Department of Commerce, Washington 25, D. C., for 25 cents each.

1950 Packs of Berries

Reports on the 1950 packs of blackberries, boysenberries, loganberries, strawberries, youngberries, and blueberries have been compiled by the N.C.A. Division of Statistics. Following are the 1950 pack totals with comparisons with the previous year:

	Blackberries 1949	Blackberries 1950	Boysenberries 1949	Boysenberries 1950	Loganberries 1949	Loganberries 1950
	(*actual cases*)		(*actual cases*)		(*actual cases*)	
Northwest	255,494	48,937	306,744	102,596	114,690	34,426
Other states	413,390	303,805	311,541	183,723	....	....
U. S. Total	668,884	352,742	618,285	286,319	114,690	34,426

	Strawberries 1949	Strawberries 1950	Youngberries 1949	Youngberries 1950
	(*actual cases*)		(*actual cases*)	
Northwest	39,623	19,134	10,514	2,626
Other states	52,668	110,453	3,950	7,000
U. S. Total	92,291	129,587	14,464	9,626

	Blueberries 1949	Blueberries 1950
	(*actual cases*)	
Maine	604,187	480,585
Other states	313,312	279,395
U. S. Total	917,499	759,980

Forthcoming Meetings

May 24-25—National Canners Association, Spring Meeting of Board of Directors and Administrative Council, Washington, D. C.

June 3-4—Michigan Canners Association, Spring Meeting, Park Place Hotel, Traverse City

June 12-13—Maine Canners Association, Summer Meeting, Lakewood, near Skowhegan

June 27-29—National Pickle Packers Association, Midyear Meeting, Sheraton Hotel, Chicago

July 18-27—Indiana Canners Association, Annual Mold Count School, Purdue University, Lafayette

August 1-10—Association of New York State Canners, Inc., 14th Annual Mold Count School, Jordan Hall, Geneva Experiment Station, Geneva

October 24-26—National Pickle Packers Association, Annual Meeting, Sheraton Hotel, Chicago

October 25-27—Florida Canners Association, 20th Annual Convention, Palm Beach Biltmore Hotel, Palm Beach

November 12-13—Wisconsin Canners Association, 46th Annual Convention, Schroeder Hotel, Milwaukee

November 15-16—Indiana Canners Association, Annual Convention, French Lick Springs Hotel, French Lick Springs

November 19-20—Pennsylvania Canners Association, Annual Convention, Penn Harris Hotel, Harrisburg

November 26-27—Michigan Canners Association, Fall Meeting, Pantlind Hotel, Grand Rapids

November 29-30—Tri-State Packers Association, 48th Annual Meeting, Philadelphia

December 6-7—Association of New York State Canners, Inc., 66th Annual Convention, Hotel Statler, Buffalo

DEATH

Harold K. Royal

Harold K. Royal, 59, Oceana Canning Company, Shelby, Mich., died of a stroke May 16. A past president of the Michigan Canners Association, Mr. Royal also had been active in N.C.A. affairs. He served two three-year terms on the Board of Directors in the mid-thirties and early forties, and in earlier years was Chairman of the N.C.A. Fruit Section.

Mr. Royal was a founder of the National Cherry Week, started in 1932, and was a member of the Old Guard Society.

Board, Council, Committees

(Concluded from page 201)

ment emergency controls. During postwar years Mr. Johnston has served as president of the Motion Picture Association of America.

The addition of Mr. Johnston to the program is the only significant change in details for the two days of mid-year Directors meeting from those previously announced. Slight changes in the time and place of certain sessions have been made and should be noted in the schedule of various committee and other meetings.

PROCUREMENT

QMC Plans To Announce Definite 1951 Requirements

Specific requirements for canned foods from the 1951 pack will be announced as soon as possible by the Quartermaster Corps, it was said this week by The Quartermaster General.

Maj. Gen. Herman Feldman, in addressing a luncheon meeting of the Industry-Armed Forces Conference in Washington May 15, said, in part:

"Insofar as canned fruits and vegetables are concerned, the Department of Agriculture's set-aside order, providing for equitable distribution of defense requirements throughout the canning industry, should have the effect of preventing dislocations in civilian market and trade channels.

"Based on the present world outlook, our requirements for fiscal year 1952 will be in a volume at least equal to that of the current fiscal year.

"At the earliest practicable date after the appropriations have been authorized, my office will announce the specific requirements in all important categories planned for fiscal year 1952. This should be helpful to industry in planning production to meet military needs.

"Currently we are making a greater use of the formal advertising procedure in our procurement program and, with the exception of emergency requirements, it is anticipated that ample time will be afforded interested suppliers to prepare and submit their bids.

"My office will continue to afford all possible assistance to small business concerns. In each of our procurement offices, a special officer is designated to look after representatives of small businessmen and give them such information and help as lies within our power. It is the fixed policy of the government to spread the procurement load as broadly and as equitably as possible within the framework of the law.

"With the easing of the critical supply position which resulted from the Korean situation, it should soon be possible to extend the lead time between contract awards and delivery dates, and also to phase procurements in such manner as to minimize their impact on industry."

QMC Field Buyers

Field buyers now operating under the Chicago Quartermaster Corps Purchasing Office are:

E. J. Bendtschneider, 722 S. 23rd St., Fort Smith, Ark. Phone—Fort Smith 3575

K. E. Benson, 4223 N. 48th St., Milwaukee, Wis. Phone—Hilltop 5-7198

R. P. Byrne, 4209 Lowell Dr., Pikesville, Md. Phone—Pikesville 183-J

B. A. Fowler, 906 E. Reynolds, Goshen, Ind. Phone Goshen 42

Dan Cravens, 257 E. South St., Franklin, Ind. Phone—Franklin 814-R

O. Grinnell and Cornell Shirtz, 419 First Federal Savings Bldg., Rochester, N. Y. Phone—Baker 4124

B. F. Martin, Acton, Ind. Phone—Blackstone 0191

H. T. Miller, 1017 Douglas, Ames, Iowa

Jay Haine, 2228 Oak St., Northbrook, Ill. Phone—931-W

T. Goldberg, 1145 Marion St., St. Paul, Minn. Phone—Humboldt 1058

J. Rockwell, 209 S. Fulton St., Mobile, Ala. Phone—6-3969

Schedule of Meetings

(Concluded from page 201)

Division, Office of the Quartermaster General

Other Controls—S. R. Smith, Director, Fruit and Vegetable Branch, Production and Marketing Administration, U. S. Department of Agriculture

5 p.m. — Cocktail Party — Arlington residence, Secretary Carlos Campbell

Friday, May 25

10 a.m.—Second Session, Board of Directors, South American Room, Hotel Statler

I. Association Business

(a) Report of N.C.A. Financial Status; Recommendation of Administrative Council; Presentation, 1950 Audit

(b) Report on West Coast Building Progress and Status of Dedication Plans; Discussion, Fall Board Meeting

(c) Supreme Court Decision on Imitation Jam

(d) Report of Legislative Committee

II. Legal Questions Back of Defense Production

1 p.m.—Luncheon, Congressional Room, Hotel Statler

Speaker—Eric Johnston, Administrator, the Economic Stabilization Agency

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